

### **REMARKS**

In the Office Action, the Examiner noted that claims 1-33 and 43 are pending in the application and that claims 1-33 and 43 are rejected. By this response, claims 5, 9, 18, 21, 26 and 43 have been amended. Thus, claims 1-33 and 43 are pending in the application. This Preliminary Amendment accompanies a Request for Continued Examination (RCE) Transmittal. Examination of the claims in this preliminary amendment is requested.

### **Claim Objections**

The Examiner has objected to claim 18 because there is insufficient antecedent basis for the limitation in the claim of "the lower handle assembly" as shown in line 7. Claim 18 has been amended to provide antecedent basis. The objection to claim 18 is believed to be overcome and action to that end is respectfully requested.

The Examiner has also objected to the limitation "the fishing pole" in claim 26, line 4, because there is insufficient antecedent basis for this limitation. Claim 26 has been amended to provide antecedent basis. The objection to claim 26 is believed to be overcome and action to that end is respectfully requested.

### **Rejections Under 35 U.S.C. §112, second paragraph**

Claims 9-15 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Furthermore, claim 9 recites the limitation "the distal

end portion" in lines 1-2, and there is insufficient antecedent basis for this limitation in the claim. Claim 9 has been amended to overcome the indefiniteness rejection. The rejection under 35 U.S.C. § 112, second paragraph is believed to be overcome and action to that end is respectfully requested.

Withdrawal of these rejections is respectfully requested.

### **Rejections Under 35 U.S.C., §102**

Claims 1-4, 6-8, 16-20, 22-24 and 43 are rejected under 35 U.S.C. §102(b) as being anticipated by *Vogts et al.* (U.S. Patent 5,369,904). The Examiner asserts that *Vogts et al.* anticipates claims 1-4, 6-8, 16-20, 22-24 and 43. Applicants traverse this rejection.

In order to prove a *prima facie* case of anticipation, the Examiner must provide 1) a single reference 2) that teaches or enables 3) each of the claimed elements (arranged as in the claim) 4) expressly or inherently 5) as interpreted by one of ordinary skill in the art. Here, the Examiner has not provided a single reference that teaches or enables each of the claimed elements as arranged in the claims, expressly or inherently. More particularly, *Vogts et al.* (at Fig. 7) merely teaches the provision of a single weight (see weight 704) that can be selectively positioned along an extension rod 702 via a latch arm 714 that couples into one of a plurality of individually selectable notches 710. The provision of latch arm 714 prevents the immediate positioning of weight 704 in "abutting relation" with adjacent weights, as well as with "butt end 708" of the rod (see column 5, lines 63-68 through column 6, lines 1-16).

Applicants have amended independent claims 1, 18, 26 and 43 in order to further clarify the structural relationship in which individual weights are provided in "abutting relation" relative to each other, as well as relative to an adjacent handle portion. For example, amended claim 18 provides a handle portion having an adjacent portion with a plurality of stackable weight members placed in conforming abutting relation substantially with an outer surface of the at least one handle portion so as to provide an outer hand grip surface. Nowhere are these elements taught or enabled by *Vogts et al.*

Accordingly, the amendment of claims 1-4, 6-8, 16-20, 22-24 and 43 by way of amendment of the respective independent claims clearly overcomes the anticipation rejection under 35 U.S.C. § 102(b) by *Vogts et al.*

Withdrawal of these rejections is respectfully requested.

### **Rejections Under 35 U.S.C., §103**

Claims 5, 9-15 and 21 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Vogts et al.* as applied to claims 3 or 19 herein, and further in view of *Dahlberg et al.* (U.S. Patent No. 5,355,611). Claim 25 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Vogts et al.* as applied to claim 24, and further in view of *Sledge* (U.S. Patent No. 6,115,955). Claims 26-27 and 29-33 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Tabor* (U.S. Patent No. 4,467,548) in view of *Vogts et al.* Claim 28 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Tabor* as modified by

*Vogts et al.* as applied to claim 27, and further in view of *Dahlberg et al.* (U.S. Patent No. 5,355,611). Applicants traverse the obviousness rejection under 35 U.S.C. §103.

Applicants herein reassert the arguments made with respect to the anticipation rejection above based on *Vogts et al.*

In order for the Examiner to establish a *prima facie* case of obviousness, the Examiner must provide 1) one or more references 2) that were available to the inventor and 3) that teach 4) a suggestion to combine or modify the references, 5) the combination or modification of which would appear to be sufficient to have made the claimed invention obvious to one of ordinary skill in the art. Here, the Examiner has not established appropriate teachings, or a basis for a suggestion to combine or modify the recited references in a manner that would appear to be sufficient to have made the claimed invention obvious to one of ordinary skill in the art.

As previously argued with respect to the anticipation rejection, *Vogts et al.* does not make it possible to nest together, or to place weights in abutting relationship together in relation to each other, as well as in relation to adjacent handle portions. Furthermore, weight 704 of *Vogts et al.* cannot be completely removed from a fishing pole handle. In contrast, Applicants' weights can be selectively removed. Furthermore, *Vogts et al.* only teaches the use of a single weight in the Figure 7 embodiment.

Additionally, the Examiner asserts that, with respect to the rejection of claims 26-27 and 29-33, *Tabor* discloses an apparatus for counterbalancing a handle comprising a set of stackable balancing weights configured to be removably supported by a handle.

Applicants traverse this assertion because *Tabor* merely teaches the provision of a plurality of storage compartments made from clear or translucent material that are capable of being stored within a hollow handle 6 of a fishing rod. The storage compartments are configured for containing fishing equipment such as fishing line (see column 2, lines 48-60).

With respect to the obviousness rejection with respect to claims 3, 5, 9-15, 19, 21 and 24-33, the Examiner has failed to establish a *prima facie* case of obviousness because the newly amended claims clearly require the provision of stackable weights provided in "abutting relation" in a manner that matches a cross-sectional outer surface profile or an outer surface of an adjacent handle component. Such configuration is provided to extend from the handle to provide a handle with a surface hand grip that is provided in combination with the adjacent handle component in the stackable weights (see claim 43). Nowhere is such a feature taught or suggested by the recited prior art references.

Accordingly, it is believed that claims 3, 5, 9-15, 19, 21 and 24-33 are nonobvious and allowable over the prior art of record.

Withdrawal of these rejections is respectfully requested.

### **CONCLUSION**


For all the reasons advanced above, Applicant respectfully submits that the application is in condition for allowance, and action to that end is respectfully requested. If the Examiner's next anticipated action is to be anything other than a Notice of Allowance,

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the undersigned respectfully requests a telephone interview before issuance of any such subsequent action.

Respectfully submitted,

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